

The Commonwealth of Massachusetts
Massachusetts Gaming Commission

Meeting Minutes

Date: September 18, 2012

Time: 1:00 p.m.

Place: Division of Insurance
1000 Washington Street
1st Floor, Meeting Room 1-E
Boston, Massachusetts

Present: Commissioner Stephen P. Crosby, Chairman
Commissioner Gayle Cameron
Commissioner James F. McHugh
Commissioner Bruce Stebbins
Commissioner Enrique Zuniga

Absent: None

Call to Order:

Chairman Crosby opened the 27th public meeting.

Approval of Minutes:

See transcript page 2.

Commissioner McHugh stated that the September 11 meeting was lengthy and the minutes are not ready for review.

Springfield Schedule and Process:

See transcript pages 2-20.

Chairman Crosby Open the meeting with a discussion of the Commission's meeting last week with Springfield Mayor Domenic Sarno and other Springfield officials and representatives. He stated that the Commission received a letter from Kevin Kennedy, Springfield's head of Planning and Economic Development, stating that the City has agreed to modify its process to require that developers who would respond to the City's RFP must also file a formal application with the Commission and the City will not have a vote on a host community agreement until the Commission has completed its qualification investigations. Chairman Crosby stated that Springfield is still awaiting a decision by the Ethics Commission relative to its consultant, Shefsky and Froelich.

Commissioner Zuniga made reference to the statutory timeframe for conducting a vote after a host community agreement is executed and the request for an election is received. Chairman Crosby stated that the subject is one that the Commission needs to discuss and perhaps issue an advisory. Commissioner McHugh asked why it is necessary for the Commission to take up that subject now. Chairman Crosby stated that the Commission should make certain that everyone understands the relationship between the host community agreement, the community vote and the manner in which the vote is scheduled. Commissioner McHugh agreed.

Commissioner Zuniga outlined his concerns with the process Springfield has proposed. He disagreed that the three reasons the City cited for the manner and speed with which it intended to conduct its process actually justified the process or the speed. Commissioner Cameron stated that she shared Commissioners Zuniga's concerns. After seeing the letter from Mr. Kennedy, however, it appeared to her that Springfield officials had heard the Commission's concerns and ideas and were making a good faith effort to work collaboratively with the Commission. Commissioner Stebbins stated that the legislation was not entirely clear on what happens when there multiple developers are competing for agreement with a single city and he agreed the Springfield officials were making an effort to work collaboratively.

Administration:

See transcript pages 20-22.

Chairman Crosby stated that all the job searches are underway. The job posting for Deputy Director of Investigations and Enforcement Bureau has been posted. Commissioner McHugh clarified the hiring process for the Staff Attorney. He has interviewed the candidates, with assistance from Commissioner Cameron, and he will select a finalist for presentation to the full Commission after the candidate successfully completes a background investigation.

Finance/Budget:

See transcript pages 22-25.

Update - Commissioner Zuniga stated that an inquiry has been received from one host community as to the process and procedure for disbursing funds to cover expenses the municipality incurs in the study and negotiation of a proposed host or surrounding community agreement. He will be drafting a reimbursement procedure to present to the Commission at its next meeting. On a separate issue, he stated that he has been advised that the threshold for incidental purchases will be increased from \$5,000 to \$10,000 and he will be coming back to the Commission with a recommendation to adopt this threshold. He stated that he is working with Director Glovsky on modifications to some aspects of the consultant contracts and will be coming back to the Commission with a draft or drafts in the near future.

Racing Division:

See transcript pages 25-31.

Operations Update – Commissioner Cameron stated that public hearings on racetrack licenses for the 2013 season will be held on October 18 at 10:00 a.m. in Plainville and at 2:00 p.m. in Boston. At those hearings, the operators will outline their plans for next year. She stated that some basic changes to the license application form have been made. The changes are designed to show the shift of responsibility for track operations from the former State Racing Commission to the Gaming Commission. A more comprehensive modification of the form will be done next year after all the rules and procedures are reviewed.

Commissioner Cameron then reviewed a case discussed earlier in the racing season. After hearing, she had made and issued a tentative decision to lift the ejection of Mr. Marciano. If the commission adopted that decision, he would be allowed to begin the process of being relicensed. Mr. Marino has signed a waiver stating he will not be objecting to the tentative decision.

Motion made by Commissioner Cameron to accept Mr. Marino's waiver of appellate rights and give immediate final approval to Commissioner Cameron's tentative decision. Motion seconded by Commissioner Stebbins. The motion passed unanimously by a 5-0-0 vote.

Chairman Crosby stated that the Commission has received a letter from Attorney William Geary about the EPA role relative to Suffolk Downs. Commissioner McHugh stated that the letter suggested that Suffolk Downs be asked to send certain communications and responses between themselves and the EPA to the Commission so it can be kept informed on this process. Chairman Crosby agreed this would be a good idea as the Commission is ultimately responsible for the facilities it oversees.

Project Work Plan:

See transcript pages 31-51.

Consultant Status Report – Kathleen O'Toole was present representing the Commission consultants. She stated that the 491 page draft of the strategic plan was delivered last week and it will be discussed at the Commission's next public meeting.

She stated that during the past week the consultants have worked with Anderson & Kreiger to deliver a document that provides the Commission with recommendation for addressing comments the Commission received from the public with respect to the Phase 1 regulations. The consultants also conducted research and provided some advice to Commission regarding some of the Springfield issues. They have been working with Director Glovsky on logistical aspects of the Phase 2 process and have begun drafting an MOU template that can be used for MOUs with other gaming jurisdictions, law enforcement agencies, and other agencies with which the Commission will need to enter agreements.

Commissioner McHugh stated that the strategic plans proceed in a linear fashion and asked if there are areas in which the Commission can proceed in a non-linear fashion. Commissioner Zuniga stated that the strategic plan mentions the option of awarding licenses for different regions at different times but does not address the award of a slots parlor license. He suggested not waiting until all the regulations of Phase 2 are final, but perhaps think about issuing regulations for different pieces in some type of sequential, or staggered, way. He stated that the Commission could begin to discuss that approach at its next meeting when discussing the strategic plan. Commissioner McHugh expressed concern that the Commission may be taking on too much if it tries to conduct a conceptual discussion at the same time it is discussing schedule for workflow.

Chairman Crosby stated that he thinks of the process on which the Commission is now embarking encompasses three distinct issues. One issue involves providing cities, towns, and developers with a clarification of the host community agreement vetting process and could be accomplished through an advisory. Another issue involves the criteria the Commission will use to award licenses. Development and approval of those criteria will take some time and require hearings. Finally, the question of whether to sequence the award of licenses is a major issue that also will take some time to consider and decide. Commissioner McHugh questioned whether, in the process of drafting Phase 2 regulations, important policies issues could be isolated and worked on to give early guidance to cities and towns. Commissioner Zuniga stated that policy decisions the Commission made should be prominently posted so that those affected by the decision can incorporate them into their plans and decision-making.

Phase 1 Regulations – Commissioner McHugh stated that the Commission’s legal consultants have delivered a document in which all of the public comments received on the Phase 1 regulations are listed next to the section of regulations to which they apply. There are some disagreements on how to handle some of the comments, so he will be reviewing these comments with the goal of delivering a second document to the Commission on Friday containing a single recommendation for how to handle each of the comments. That document will form the basis for any necessary discussion with the consultants at the next public meeting. After that discussion, that Commission can decide on appropriate changes to the Phase 1 draft and the revised draft can be delivered to the Secretary of State for publication on September 28.

Wall Street Project – Commissioner Zuniga stated that he has been working on a process to locate people who could assist the Commission to conduct a financial assessment or research in order to foster investment interest by the financial community. He is working with staff to prepare an RFR document that will be issued shortly. Chairman Crosby stated that he has been working with Commissioner Zuniga on this and would not want to pursue it if there is no value in doing so. However, in discussions with bankers, he and Commissioner Zuniga were told there would be value, though they received varying perspectives on what that value would be. The goal is to discuss the subject further and then determine the value engaging in discussions with the financial community would bring to the Commissions processes, the competition for licenses or the ease with which developers could raise capital to carry out their proposals.

Public Education and Information:

See transcript pages 51-64.

Community and/or Developer Outreach/Responses to Requests for Information – Commissioner McHugh stated that he was in Winthrop last week where Police Chief Terence Delehanty raised some interesting questions. One question was whether the Commission is planning to reach out to police departments in other jurisdictions that host gaming facilities to try to obtain whatever data those departments have about the level of observed changes, if any, in antisocial behavior after casinos began operating. The second question was whether the Commission's studies will take into account the depressed state of the economy when establishing baselines. Chief Delehanty pointed out that without taking the state of the economy into account, baseline studies may not give a true picture of a casinos impact on surrounding areas. Chairman Crosby stated that the study will have to have controls in place for those variables.

Commissioner McHugh stated that he is continuing to work on the answers to the questions posed by the City of Chelsea.

Acting Ombudsman Report – Chairman Crosby stated that he had other Commissioners had received a letter dealing with the Commission's published protocol regarding interactions between developers and cities and towns in which the developers proposed a project. He also received a letter from Plainridge detailing some of the work they did he had done before the protocol was published. He stated that he has included in the Commission meeting packet an update of the advisory to cities and towns regarding timelines and processes that is now posted on the Commissions website. The update contains some minor changes to the schedule. The biggest change concerns the likely date for issuing licenses with the early date being sometime in the Fall of 2013 but the more likely being March or April of 2014. Commissioner McHugh stated that he would like to explore the dates in this document further, but requested that the Commission defer consideration until it had an opportunity to meet with the consultants and discuss the strategic plan next week.

Ombudsman Search Update – Chairman Crosby stated that the hiring process is continuing and he hopes to have someone on board soon to fill this position.

Report from Director of Communications and Outreach – Director Driscoll stated that an agreement was signed last week with Jackrabbit, a website development company. They are in the process of building out the project management chart and will be briefing her on this process and the development of a logo. Her goal is to keep the process moving as quickly as possible. Chairman Crosby asked if someone is working on ensuring the existing website is kept current. He stated that he just redid his welcome letter, which he realized was outdated. Director Driscoll stated that she is working on keeping the existing website up to date.

Discussion of Diversity/Inclusion Forum, September 19, 2012 – Chairman Crosby stated that former City Councilor Bruce Bolling's funeral is scheduled for the same time as the forum. He stated that he spoke with Ron Marlowe, who is organizing the forum, about possibly rescheduling it. Mr. Marlowe stated that the best way to honor Councilor Bolling's memory

would be to have the forum and promote its diversity objectives, so the Commission is moving forward with the forum as scheduled. He stated that approximately 175 people are registered and the forum will begin at 8:30 a.m.

AIA Massachusetts Proposal – Commissioner Stebbins stated that the Commission has received a letter from the American Institute of Architects and he has spoken with their executive director, who will be attending one of the Commission meetings in October. He stated that a conversation with an AIA representative at a Commission meeting might be the first step in a process that would include an educational forum at some future time.

Research Agenda:

See transcript pages 64-66.

Status Report – Chairman Crosby stated that the RFI for the research project has been finalized and will be posted today.

Motion made to adjourn, motion seconded and carried unanimously.

List of Documents and Other Items Used at the Meeting

1. Massachusetts Gaming Commission September 18, 2012 Notice of Meeting & Agenda
2. September 18, 2012 Letter from Springfield Planning & Development Regarding Springfield Casino Host Agreement Process
3. September 18, 2012 Memorandum Regarding Racetrack Licensing Process

/s/ James F. McHugh
James F. McHugh
Secretary